

# EXHIBIT D

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
FRANK DE MICHELE,

Plaintiff,

-against-

**DEFENDANTS'  
RESPONSES AND  
OBJECTIONS TO  
PLAINTIFF'S REQUEST  
FOR ADMISSION**

09 CV 9334 (PGG) (HBP)

CITY OF NEW YORK, COUNTY OF WESTCHESTER,  
TIMOTHY BUGGE, in his individual and official capacity  
as a Deputy Inspector in the New York City Police  
Department, DEODAT URPRASAD, in his individual and  
official capacity as a Captain in the New York City Police  
Department, ADAM MELLUSI, in his individual and  
official capacity as a Sergeant in the New York City Police  
Department, ROGER DiCARLO and ANDREW  
NYBERG, in their individual and official capacities as  
police officers in the New York City Police Department,  
WILLIAM T. McGUINNESS, in his individual and official  
capacity as a Sergeant in the Westchester County  
Department of Public Safety, BRIAN P. TIERNEY,  
GEORGE O. RUIZ, CHRISTIAN M. GUTIERREZ,  
MITCHELL B. SERLIN, CHRISTOPHER M.  
LIEBERMAN, MICHAEL N. BRADY and RICHARD E.  
PUCILLO, in their individual and official capacities as  
Police Officers in the Westchester County Department of  
Public Safety, and DOES 1-20, whose identities are not yet  
known,

Defendants.  
----- x

STATE OF NEW YORK     )  
                                  : ss.:  
COUNTY OF \_\_\_\_\_)

Robert Guerrero, Jr., being duly sworn, deposes and says:

1. I am Robert Guerrerrior, Jr.
2. I make this affidavit regarding an incident that occurred on January 17<sup>th</sup>  
and 18, 2009.
3. Prior to January 17, 2009, I had arranged over the Internet to sell  
Mercedes car parts to an individual. We agreed to meet at a golf course at Shore Road for me to  
sell him the car parts.

*Reg*

4. Late in the evening on January 17, 2009, I went to the golf course on Shore Road to sell the car parts.

5. Two males emerged from a customized, unique C63 white Mercedes with a black roof. One male was heavysset and another male was skinnier. One male had his hands in his pockets, told me he had a gun and that he would shoot me. The men then proceeded to rob me of the car parts and my cellular telephone.

6. I immediately left the scene after I was robbed and drove home. It took me approximately 20 minutes to return home.

7. I spoke with my family about the incident at my house for approximately 5 minutes, at which point my father, Robert Guerrierio, Sr., and I went to the New Rochelle police station to report the robbery.

8. New Rochelle police officers informed us that the robbery did not occur within their jurisdiction and directed us to go to the 45<sup>th</sup> precinct in the Bronx.

9. My father and I drove to the 45<sup>th</sup> precinct in the Bronx and got there approximately one hour after the robbery had occurred.

10. We spoke to several police officers at the 45<sup>th</sup> precinct and informed them of the robbery. While we were present in the 45<sup>th</sup> precinct, we heard about a high speed car chase involving a C63 white Mercedes with a black roof. The officers from the 45<sup>th</sup> precinct had us go to the scene of where the chase had ended.

11. We went to an address in the Bronx and I had the opportunity to view both the car and the suspect that the police had apprehended. This occurred approximately two or three hours after the robbery.

12. The car was unique because it was customized and it was identical to the car that was used in my robbery and I informed the police as such.

13. I viewed the suspect that the police had in their custody. The suspect was sitting inside a police car at the time and when I saw him, he looked like the skinnier male who was involved in the robbery. I told the police that "It looks like [the guy who robbed me]."


14. I then went back to the 45<sup>th</sup> precinct and spent the next few hours speaking with several police officers and told them about the robbery. My father and I left the 45<sup>th</sup> precinct at approximately 4:00 a.m. or 5:00 a.m. on January 18, 2009.

15. I never saw the suspect while I was in the precinct.

16. Approximately two weeks to one month later, I identified a the heavier male who robbed me in a line-up and also viewed photographs in a photo array.

17. I appeared in court several times for the robbery case, but eventually decided to drop the charges because I had missed too many days of work going back and forth to

court, I had misidentified the perpetrator, and I also did not want to have anything to do with the perpetrators again.

  
Robert Guerrero, Jr.

Sworn to me before this 25<sup>th</sup> day of  
October, 2011



